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C O N F I D E N T I A L SECTION 01 OF 03 USUN NEW YORK 000376

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IO AND NEA FRONT OFFICES

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TAGS: [PREL](#) [PTER](#) [UNSC](#) [SY](#) [LE](#)

SUBJECT: LEBANON TRIBUNAL: P-3 DISCUSS DRAFT RESOLUTION AND
ENGAGE SYG BAN

REF: PARIS 1888

Classified By: Ambassador Zalmay M. Khalilzad, per 1.4 (b) and (d).

¶1. (C) Summary. During a meeting on May 11, P-3 PermReps told SYG Ban that the Council should act on the tribunal as soon as possible after it receives a clear request from the GOL and the SYG endorses the GOL position. Noting he planned to speak with PM Siniora on May 14, Ban reported that Syrian President Bashar al-Assad had warned him two days ago that Council action to establish the tribunal would lead to civil war in Lebanon. Ban did not offer details on the informal briefing he will deliver on the tribunal during his monthly lunch with Council PermReps on May 15. After their meeting with the SYG, P-3 PermReps met to discuss the French draft Chapter VII resolution on the tribunal. They agreed on the legal basis for establishing the tribunal as described in operative paragraph one of the French draft and decided as a result that PM Siniora should now send his letter to Ban. Ambassador Khalilzad argued that the resolution must tackle the role of Lebanese approval required to fund the tribunal, conclude a headquarters agreement, and select judges, but the French and British insisted that for tactical reasons the P-3 should make no changes to the tribunal agreement previously agreed between the GOL and UN. P-3 PermReps agreed to discuss the draft text again on May 14 pending new instructions from capitals. Separately, Arab League SYG Amr Moussa told P-5 PermReps that prospects for a Lebanese solution to the tribunal issue are improving. He reportedly advised SYG Ban to wait two weeks before endorsing Council action on the court. End Summary.

SYG and P-3 Talk Tribunal

¶2. (C) During a meeting with P-3 PermReps on May 11 largely dedicated to Sudan (septel), SYG Ban asked how soon the Council would act on the tribunal once the Lebanese reach an impasse. Ambassador Khalilzad argued that timing should be based on two factors -- a clear signal from the GOL that the parliamentary process is deadlocked and that it needs UNSC assistance, and a determination by the SYG that the Council should provide such assistance. He informed the SYG that PM Siniora would send a letter as early as May 13, possibly accompanied by a letter from Lebanese MPs, and the Council should move as soon as possible thereafter. French PR de la Sabliere agreed on the importance of the two factors and said the UNSC would respond in a "responsible way" to Siniora's request and the SYG's assessment.

¶3. (C) Noting he planned to speak with PM Siniora on May 14, Ban reported that Syrian President Bashar al-Assad had warned him two days ago that Council action to establish the

tribunal under Chapter VI or Chapter VII would lead to civil war in Lebanon. Ban said he urged Assad to play a useful role in encouraging a Lebanese solution and that UNSC patience on the issue of the tribunal was decreasing rapidly.

After informing P-3 PermReps of conflicting reports that six Shi'a ministers had returned to the Lebanese Cabinet, Ban cautioned that this development could just be a political ploy to disrupt or delay UNSC action on the tribunal. He agreed that there was no progress to report as a result of Michel's visit to Beirut two weeks ago.

P-3 Discuss Draft Resolution

14. (C) Following their meeting with the SYG, P-3 PermReps met to discuss the French draft Chapter VII resolution on the tribunal. After confirming agreement on the legal basis for the establishment of the tribunal as described in operative paragraph one of the French text, they discussed how to address three additional elements related to the establishment of the tribunal that will require the approval of the Lebanese Parliament. (Explanatory Note: It was presumed that because the Lebanese Parliament cannot ratify the GOL-UN agreement and statute to establish the tribunal that the Parliament would likewise be unable to act on related matters. When the GOL-UN agreement was drafted, it had been assumed that the Parliament would take action on all issues related to the Tribunal's establishment. End Note.) These three additional elements are: concluding a headquarters agreement with the government of the country that would host the tribunal; funding the court; and appointing the Lebanese judges. (Note: USUN sent the latest text of the resolution to IO, NEA, and L via class e-mail. End Note.)

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15. (C) Tracking closely with ref A, de la Sabliere insisted that the resolution must only "unlock what has been locked" -- that is, the Lebanese parliament's inability to meet and consider the tribunal agreement -- and not amend the agreement the GOL had reached with the UN in any way. Otherwise, he argued, we would open the door to allowing the Russians and others to propose additional changes to the tribunal agreement and create the impression that we are doing more than is necessary to address the current impasse. Although acknowledging that current political impasse in Lebanon may mean the GOL will not be able to provide financing for the tribunal as originally agreed, UK PermRep Jones-Parry expressed a strong desire to avoid funding the tribunal via assessed contributions (assessed contributions are derived from annual member state contributions to the UN's budget). Contradicting some of the positions taken earlier by British experts, he also agreed with the French that for tactical reasons we should make no other changes to the tribunal agreement.

16. (C) Pushing back against de la Sabliere's strategy, Amb Khalilzad argued that leaving the other issues unresolved in the draft text might necessitate additional Council action on the tribunal. If the Lebanese government can't win Parliamentary support for a headquarters agreement, for example, the Council would have to address that issue before the court could even begin functioning. Then, once the court begins operating, the Council would again have to act to compel third-state cooperation and/or overcome immunities. The French approach, argued Amb Khalilzad, would create a tribunal on paper, but not one on the ground. Perhaps we should test the waters by trying to address the other issues in the draft text, and then reconsider if we encounter opposition in the Council. The French and British PermReps agreed that the French approach is a strictly political one that does not address all the issues related to the establishment of the tribunal, but they argued we should first overcome the hurdle of establishing the tribunal, and then consider the other issues if necessary. Perhaps, they

suggested, the act of creating the tribunal would unblock the political impasse in Lebanon, and then the government would be able to carry out the subsequent steps with the support of the Parliament. Noting that he had very little flexibility from Paris based on the instructions he had just received, de la Sabliere suggested that we report this discussion to capitals and reconvene on May 14.

17. (C) Given that they had reached agreement on the legal basis for establishing the tribunal in operative paragraph one of the draft text, the three PermReps agreed that PM Siniora should now send his proposed letter to Ban. De la Sabliere noted that it would be important to have the letter before Secretary Rice's conversation with Russian FM Lavrov. After the letter is sent and Ban briefs the Council during his monthly lunch with UNSC PermReps on May 15, de la Sabliere proposed that the P-3 share the text bilaterally with individual members. Once nine votes in favor are assured, the P-3 could table the resolution. After the P-3 meeting, poloffs briefed Lebanese Mission to the UN Charge Caroline Ziadeh and Saad Hariri advisor Amal Mudallali on the discussion and urged them to press PM Siniora to send his letter to Ban on May 13. Poloffs also shared the provisionally-agreed OP 1, explained USG views on addressing the other issues in the tribunal agreement described above, and reported that P-3 PermReps would meet again on May 14 to reach agreement on the draft text.

Moussa Causing Trouble in NY

18. (C) The issue of the tribunal was also discussed during a May 11 lunch between P-5 PermReps and Arab League SYG Amr Moussa. After de la Sabliere described the parliamentary impasse in Lebanon and argued that the Council should "unlock" it, Moussa replied that the situation in Lebanon was actually improving -- Shi'a ministers had returned to the Cabinet and Speaker Nabih Berri was talking about opening the Parliament. Ziadeh told USUN separately that Moussa had urged SYG Ban -- and most likely Russian PR Churkin -- to support a two-week delay in Council action to see if the Lebanese can resolve the impasse before the current parliamentary session expires. According to Ziadeh, Moussa also reportedly advised the SYG that civil war could break out in Lebanon if the Council resorted to Chapter VII to establish the tribunal.

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Comment

19. (C) We may face the choice on May 14 of whether to prolong P-3 discussions on the draft text or support the French, and now British, preference to leave the tribunal agreement and statute untouched. If we decide to prolong discussions in order to amend certain parts of the tribunal agreement in the draft resolution, it would be helpful to enlist Lebanese support for our position before trying to reach closure with the P-3.
KHALILZAD